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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,009	01/16/2004	Jiutao Li	M4065.0609/P609-D	6261
24998	7590	06/12/2008		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER JACKSON JR, JEROME	
			ART UNIT	PAPER NUMBER
			2815	
			MAIL DATE	DELIVERY MODE
			06/12/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,009

Applicant(s)

LI, JIUTAO

Examiner

Jerome Jackson Jr.

Art Unit

2815

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 and 109-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15 and 109-114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/27/08 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 14 is objected to because it obviously should be dependent on claim 13 rather than claim 12.

Claims 11-15 and 109-114 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Uno '239, of record.

Uno still applies because the new limitation "in contact with" does not distinguish over Uno where the silver layer 107 is in at least capacitive contact with the chalcogenide layer 204; or, is "in contact with" layer 204 through intervening layers. Likewise, the new limitation essentially transparent to ultraviolet radiation" does not distinguish over Uno where "barrier" chalcogenide layer 104 of 6nm thickness is "essentially transparent to uV radiation". Note applicant's barrier chalcogenide layer is 2-5nm thick. The magnitude of "essentially" is not exactly stated and therefore is not considered to structurally distinguish over Uno.

Claims 11, 111 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Pryor or Uno, of record.

As previously stated, APA merely lacks a passivation layer taught by Pryor or Uno. Broad claims 11, 111 and 114 do not structurally distinguish over the teachings and suggestions of the applied art.

Claims 11, 12 and 110-114 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kozicki 2002/0168820.

Kozicki discloses a conductive layer 130 overlying substrate 110; a chalcogenide 140; a silver layer 120; and barrier 155. The barrier is thin and "essentially transparent to uV". The broad claims do not structurally distinguish over Kozicki. Claims reciting functional language or "about" thicknesses are not patentable over Kozicki because the device dimensions are similar and there is no proof the Kozicki device cannot function as claimed.

Claims 11, 12, and 110-114 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Moore 2002/0106849.

Moore discloses in figure 6 a substrate 12; conductive layer 16; chalcogenide 23; silver 24; and barrier layer 26 or 32 either being essentially transparent to uV radiation. Broad claims 11, 12 and 110-114 do not structurally distinguish over Moore.

Applicant's arguments filed 2/27/08 have been fully considered but they are not persuasive. Applicant is apparently arguing the silver material is in direct physical contact with the chalcogenide, however, the claims are not so specific, making the arguments unpersuasive. Likewise arguments regarding "essentially transparent" are unconvincing as the magnitude of "essentially transparent" is not defined. Broadly construed, the thin barrier layer of Uno is considered "essentially transparent".

Arguments regarding APA with Uno and Pryor are not convincing as silicon dioxide passivation/protection layers of Uno (col. 2) or Pryor are "essentially transparent" to uV radiation. The passivation/protection coating is also "on" or "over" all of the device layers. The claims are too broad to be considered patentable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 571-272-1730. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Parker can be reached on 571-272-2298. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jerome Jackson Jr./
Primary Examiner, Art Unit 2815